

Delegation of Authority to Board of Nursing RN Education and Discipline Staff

The Board of Nursing delegates to professional education staff the authority to:

- Approve nursing education programs with curriculum changes that relate to decreasing the number of clinical hours across the life cycle as long as the hours meet Board regulation 18VAC90-20-120 E.
- Approve quarterly reports from nursing education programs that meet all regulation requirements.

The Board of Nursing delegates to professional discipline staff the authority to:

Offer prehearing consent orders (PHCO's) in the following circumstances:

- Discipline cases for all occupations regulated by the Board of Nursing for sanctions consistent with the approved Sanction Reference Worksheet Guidelines (see Guidance Document 90-7) and as delegated in this document.
- (Non)Compliance case of licensee on probation who has let license lapse (not working), may be closed undetermined. Board of Nursing data base would be flagged so if the license is being made current, staff would then offer PHCO with same terms as initial probation orders.
- Reinstatement applicant – applicant does not reveal prior criminal conviction (Board of Nursing is aware of conviction on another application, or learns of conviction from another source), offer PHCO to reprimand and approve for licensure (with the exception of cases resulting in mandatory suspension).
- Disciplinary/Health Practitioner Monitoring Program (HPMP) case – no prior Board history, no prior stay granted, compliant with HPMP contract and no issues other than impairment, offer PHCO to take no action contingent upon HPMP compliance (No IFC).
- Report received from HPMP committee – stay of disciplinary action vacated (but individual not dismissed from HPMP) and licensee now fully compliant with contract. Offer PHCO – take no action contingent upon continued compliance with HPMP. Include in findings of fact in order that stay was vacated.
- Cases involving HPMP participant that was ordered into program, but now unable to participate due to medical reasons and HPMP committee dismisses or accepts individuals resignation; offer PHCO to accept voluntary surrender for indefinite suspension.

- During any type of case investigated, licensee indicates to the investigator the desire to surrender, or individual mails in license during course of the investigation; offer PHCO to accept voluntary surrender for indefinite suspension.
- Cases resulting from mandatory/self reports of admission to hospital for mental health issues where there are no practice issues, staff are authorized to either: offer CCA with terms (i.e. quarterly reports from treating provider); close undetermined; or offer PHCO to take no action contingent upon entry into or remain in compliance with HPMP.
- Cases involving a positive urine drug screen on duty for a substance not prescribed to the licensee. Staff is authorized to either offer a PHCO for Reprimand or a CCA, in lieu of scheduling an informal conference, depending on the facts of the case.
- Abandonment of patients by CNAs in a nursing home or other healthcare facility and where this is the only alleged issue. PHCO for reprimanded.
- One time failure to provide acceptable standard of care. PHCO reprimand
- Allegations of verbal/physical abuse with mitigating circumstances. PHCO reprimand for unprofessional conduct
- Action taken by another state board of nursing. PHCO with similar action or terms and conditions e.g. probation, HPMP.
- Initial and reinstatement applicants
 1. PHCO with sanction or terms consistent with another state
 2. PHCO to reinstate and comply with HPMP when a lapsed licensee was under prior order to be in HPMP
 3. Applicants whose only cause for denial related to impairment issues. PHCO requiring HPMP participation
 4. Reinstatement with same terms of probation for a probationer who allowed their license to lapse
 5. PHCO to Reprimand and approve, for failing to reveal a criminal conviction on a prior application for licensure/certification/registration.
- Authority to modify probation orders
- Authority to issue order of successful completion of HPMP/terms & issue unrestricted license following notification by HPMP committee, when previous order of take no action contingent upon HPMP.

- Practicing on expired license for Nurses – PHCO for monetary penalty ranging \$100 – \$500 (see Guidance Document # 90-38)
- Practicing on expired certificate or registration for C.N.A.s, C.M.T.s and R.M.As – PHCO ranging from advisory letter to monetary penalty from \$50 to \$150 (see Guidance Document #90-61)

Offer Confidential Consent Agreements (CCA's) in the following circumstances:

- Single medication error with no patient harm
- Unintentional falsification of employment application
- Unintentional falsification of initial licensure and/or reinstatement application (regarding past action, criminal convictions), where applicant misunderstood question and believed the Board already knew
- Standard of care violation “with little or no injury”
- Standard of care violation that may be in part due to systems issues
- Technical probation violations (i.e., late reports, etc.)
- Pre-employment positive drug screen without evidence it has affected practice
- Possible impairment without evidence that it has affected practice (i.e. coming to work with alcohol on breath & sent home; hospitalized for psychiatric or substance abuse treatment)
- CE violations for CMT's and LNPs (see also Guidance Document # 90-10 for LNPs)
- A single misdemeanor conviction involving moral turpitude, with no other issues (ex. Worthless check; shoplifting)
- Single incident of exceeding scope of practice – accepting assignment or agreeing to do a task without adequate training obtained or competency maintained and no patient harm
- Inappropriate verbal response that does not rise to the level of verbal abuse (i.e., “shut up”)
- Single boundary violation with no patient harm (i.e., getting involved with patient finances) and not resulting in criminal conviction
- HPMP participant not eligible for a stay, but with minimal practice issues
- Vague “rough handling” where there is no patient harm & does not rise to the level of abuse
- Unintentional/inadvertent Practice Agreement violations for LNP's with Prescriptive Authority

Close cases in the following circumstances:

- Insufficient evidence of a violation of law or regulation, or not rising to the level of disciplinary action by the Board
- Undetermined for reconsideration when another similar complaint is received
- When the lapsed/suspended/revoked licensee applies to reinstate or late renew

Addendum: Successful Completion and Termination of Probation Terms

Effective November 15, 2011, Board staff shall issue an Order to document successful completion of probation with terms, consistent with the way the Board handles successful completion of board-ordered HPMP participation. Said completion orders shall be scanned onto the agency website and provide consistency to the public in Board of Nursing documentation in the future.

Revised on date: May 15, 2012

Replaces Guidance Documents 90-33, 90-35, 90-39, 90-47, 90-48, 90-49, 90-50, 90-51
Board revision: 5/15/07, 7/17/07, 5/18/2010, 9/13/11, 11/15/2011, and 5/15/2012